

§ 53103. Award of operating agreements

(a) IN GENERAL.—The Secretary shall require, as a condition of including any vessel in the Fleet, that the person that is the owner or operator of the vessel for purposes of section 53102(c) enter into an operating agreement with the Secretary under this section.

(b) EXTENSION OF EXISTING OPERATING AGREEMENTS.—

(1) OFFER TO EXTEND.—Not later than 60 days after the date of enactment of this paragraph, the Secretary shall offer, to an existing contractor, to extend, through September 30, 2025, an operating agreement that is in existence on the date of enactment of this paragraph. The terms and conditions of the extended operating agreement shall include terms and conditions authorized under this chapter, as amended from time to time.

(2) TIME LIMIT.—An existing contractor shall have not later than 120 days after the date the Secretary offers to extend an operating agreement to agree to the extended operating agreement.

(3) SUBSEQUENT AWARD.—The Secretary may award an operating agreement to an applicant that is eligible to enter into an operating agreement for fiscal years 2016 through 2025 if the existing contractor does not agree to the extended operating agreement under paragraph (2).

(c) PROCEDURE FOR AWARDING NEW OPERATING AGREEMENTS.—The Secretary may enter into a new operating agreement with an applicant that meets the requirements of section 53102(c) (for vessels that meet the qualifications of section 53102(b)) on the basis of priority for vessel type established by military requirements of the Secretary of Defense. The Secretary shall allow an applicant at least 30 days to submit an application for a new operating agreement. After consideration of military requirements, priority shall be given to an applicant that is a United States citizen under section 50501 of this title. The Secretary may not approve an application without the consent of the Secretary of Defense. The Secretary shall enter into an operating agreement with the applicant or provide a written reason for denying the application.

(d) LIMITATION.—The Secretary may not award operating agreements under this chapter that require payments under section 53106 for a fiscal year for more than 60 vessels.

(Added Pub. L. 108-136, div. C, title XXXV, § 3531(a), Nov. 24, 2003, 117 Stat. 1808; amended Pub. L. 109-304, § 13(a)(2), Oct. 6, 2006, 120 Stat. 1700; Pub. L. 109-364, div. C, title XXXV, § 3502(b)(1), Oct. 17, 2006, 120 Stat. 2515; Pub. L. 112-239, div. C, title XXXV, § 3508(c), Jan. 2, 2013, 126 Stat. 2224.)

REFERENCES IN TEXT

The date of enactment of this paragraph, referred to in subsec. (b)(1), probably means the date of enactment of Pub. L. 112-239, which amended subsec. (b) generally and was approved Jan. 2, 2013.

AMENDMENTS

2013—Subsec. (b). Pub. L. 112-239, § 3508(c)(1), amended subsec. (b) generally. Prior to amendment, subsec. (b) related to procedure for applications.

Subsec. (c). Pub. L. 112-239, § 3508(c)(2), amended subsec. (c) generally. Prior to amendment, subsec. (c) related to priority for awarding agreements.

2006—Subsec. (c)(1). Pub. L. 109-304, § 13(a)(2)(A)–(C), substituted “section 50501 of this title” for “section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802)” in subpars. (A)(iii) and (C)(i) and (ii), “applying subparagraph” for “applying subparagraphs” in subpar. (B), and “section 50501” for “section 2” in subpar. (C) heading.

Subsec. (c)(3)(B). Pub. L. 109-304, § 13(a)(2)(D), substituted “agreements” for “agreement”.

Subsec. (c)(4)(A). Pub. L. 109-364, § 3502(b)(1)(A)–(D), redesignated cls. (i) and (ii) as cl. (i), subcls. (I) and (II), respectively, in subcl. (II) substituted “; or” for period at end, and added cl. (ii).

Subsec. (c)(4)(B). Pub. L. 109-364, § 3502(b)(1)(E), inserted “with respect to which a binding contract is entered into under subparagraph (A)(i)” after “existing tank vessel”.

Subsec. (c)(4)(C), (D). Pub. L. 109-364, § 3502(b)(1)(F), added subpars. (C) and (D).

§ 53104. Effectiveness of operating agreements

(a) EFFECTIVENESS, GENERALLY.—The Secretary may enter into an operating agreement under this chapter for fiscal year 2006. Except as provided in subsection (b), the agreement shall be effective only for 1 fiscal year, but shall be renewable, subject to the availability of appropriations, for each subsequent fiscal year through the end of fiscal year 2025.

(b) VESSELS UNDER CHARTER TO UNITED STATES.—Unless an earlier date is requested by the applicant, the effective date for an operating agreement with respect to a vessel that is, on the date of entry into an operating agreement, on charter to the United States Government, other than a charter pursuant to an Emergency Preparedness Agreement under section 53107, shall be the expiration or termination date of the Government charter covering the vessel, or any earlier date the vessel is withdrawn from that charter.

(c) TERMINATION.—

(1) TERMINATION BY SECRETARY.—If the contractor with respect to an operating agreement materially fails to comply with the terms of the agreement—

(A) the Secretary shall notify the contractor and provide a reasonable opportunity to comply with the operating agreement;

(B) the Secretary shall terminate the operating agreement if the contractor fails to achieve such compliance; and

(C) upon such termination, any funds obligated by the agreement shall be available to the Secretary to carry out this chapter.

(2) EARLY TERMINATION BY CONTRACTOR, GENERALLY.—An operating agreement under this chapter shall terminate on a date specified by the contractor if the contractor notifies the Secretary, by not later than 60 days before the effective date of the termination, that the contractor intends to terminate the agreement.

(d) NONRENEWAL FOR LACK OF FUNDS.—If, by the first day of a fiscal year, sufficient funds have not been appropriated under the authority provided by this chapter for that fiscal year, then the Secretary shall notify the Committee on Armed Services and the Committee on Commerce, Science, and Transportation of the Sen-